

### **REMARKS**

In the Office Action<sup>1</sup> mailed April 19, 2007, the Examiner rejected claims 2, 4, 5, 7, and 8 under 35 U.S.C. § 112, second paragraph, as being indefinite; and rejected claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by Kail (U.S. Patent No. 5,959,529, hereafter "Kail").

In this Reply, Applicant amends the specification and amends claims 1-8. Applicant submits that no new matter has been included in these amendments. Claims 1-8 remain pending and under current examination.

**I. The rejection of claims 2, 4, 5, 7, and 8 under 35 U.S.C. § 112, second paragraph:**

In rejecting claim 2, the Examiner asserted, "[c]laim 2 contains the trademark/trade names Bluetooth, IEEE 802.11, IrDA, and Home RF," and "[w]here a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. § 112, second paragraph." Office Action at page 2.

Although Applicant disagrees with the Examiner, Applicant has amended claim 2 to recite "Bluetooth wireless network standard, IEEE 802.11 wireless network standard, IrDA wireless network standard, and Home Radio Frequency (RF) wireless network standard." Applicant submits that the local wireless standards as claimed is set and published by, for example, a standard setting organization. Accordingly, one of ordinary

---

<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action

skill would readily appreciate the metes and bounds of the local wireless communication standard as claimed.

In rejecting claims 4, 5, 7, and 8, the Examiner asserted, "[t]he limitation 'RF' is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention." Office Action at page 3.

Although Applicant disagrees with the Examiner, Applicant has amended the specification and claims 4, 5, 7, and 8 to spell out the acronym "RF," which reads "Radio Frequency," as well known in the art.

For at least the above reasons, Applicant respectfully requests withdrawal of the rejection of claims 2, 4, 5, 7, and 8 under 35 U.S.C. § 112, second paragraph, as being indefinite.

## **II. The rejection of claims 1-8 under 35 U.S.C. § 102(b):**

Applicant respectfully traverses the rejection of claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by Kail. In order to properly establish that Kail teaches Applicant's claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in that single reference. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Claim 1, as amended, recites a medical terminal for wirelessly communicating medical information with a wireless terminal, the medical terminal comprising, among other things, "a condition examining part for examining a health condition of a user," (emphasis added). Kail fails to teach at least the claimed condition examining part.

The Examiner asserted, "[r]egarding claim 1, Kail teaches a medical terminal in a portable medical system that communicates medical information between a wireless terminal and said medical terminal by wireless, (abstract), said medical terminal comprising: a condition examining part for examining a condition of user's health, (column 1, lines 59-65)." Office Action at pages 3 and 4. Applicant respectfully disagrees.

Kail, at column 1, lines 59-65, discloses,

The present invention provides an apparatus and a method for remotely monitoring the status of a living or an inanimate subject. The approach of the invention permits the monitoring of the condition and location of the subject, with interaction by the subject in some cases. The nature of the monitoring may be varied as necessitated by circumstances.

(Emphasis added). Accordingly, Kail appears to merely teach an apparatus capable of monitoring the location of a living or an inanimate subject, which cannot constitute a teaching of "a condition examining part for examining a health condition of a user," as recited in claim 1. For at least this reason, Kail fails to teach each and every element of claim 1, and cannot anticipate claim 1. Claim 1 is allowable.

Claims 2 and 3 depend from claim 1, and require all the elements of claim 1. Accordingly, claims 2 and 3 are allowable at least due to their dependence from claim 1.

Claim 4, as amended, recites a wireless terminal for remote access examination in a portable medical system that communicates medical information between said

wireless terminal and a medical terminal by wireless, said wireless terminal comprising, among other things, “a local wireless interface . . .; wherein said local wireless interface receives the medical information using one selected from the group consisting of Bluetooth wireless network standard, IEEE 802.11 wireless network standard, IrDA wireless network standard, and Home Radio Frequency (RF) wireless network standard.” Kail fails to teach at least the claimed wireless network standards.

In a discussion related to claim 2, the Examiner asserted, “Kail further teaches wherein said local wireless interfaces with the wireless terminal, and said medical terminal is one selected from a group consisting of Bluetooth, IEEE 802.11, IrDA, and Home RF, (column 4, lines 61-67 and column 5, lines 1-13).” Office Action at page 4. The Examiner’s assertion, however, is incorrect.

Kail, at column 4, lines 61-67, and column 5, lines 1-13, discloses,

The microprocessor 22 may be a Multi-Chip Package (MCP) such as the currently available Vadem VG330, the Advanced Micro Devices AMD Elan SC400, the NEC HHT-ASSP, or the ZF MicroSystems SMX/386. The microprocessor includes a power management unit which permits the microprocessor to be placed into an inactive state or awakened to an active state by a proper signal. The power management achieves conservation of the power of the power supply 42. The microprocessor is typically provided with memory 44, which may be a random access memory, a readonly memory, a mass storage device, or any combination of these types of memory. This memory may be shared with other components of the portable monitoring unit 12. The first transceiver 26 may be a single-board digital wireless module such as a WIT915 or WIT2500M marketed by Digital Wireless Corporation, with the appropriate interface 24. The first transceiver 26 has its own power management unit that permits the transceiver to be placed into an inactive state or awakened to an active state by a proper signal.

(Emphasis added). Accordingly, Kail merely teaches a single-board digital wireless module, which cannot constitute a teaching of “a local wireless interface . . .;

wherein said local wireless interface receives the medical information using one selected from the group consisting of BlueTooth wireless network standard, IEEE 802.11 wireless network standard, IrDA wireless network standard, and Home Radio Frequency (RF) wireless network standard," as recited in amended claim 4. Kail, therefore, fails to teach each and every element of claim 4, and cannot anticipate claim 4. Claim 4 is allowable.

Amended claims 5-8, while of different scope from claims 1 or 4, recites subject matter similar to that of claims 1 or 4. Accordingly, claims 5-8 distinguishes over Kail for at least the same reasons as claims 1 or 4 distinguish over Kail.

For at least the above reasons, Applicant respectfully requests withdrawal of the rejection of claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by Kail.

### **III. Conclusion:**

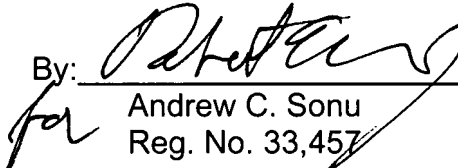
In view of the foregoing remarks, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 18, 2007

By:  #27432  
for Andrew C. Sonu  
Reg. No. 33,457